

# Legislative Analysis

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## USING PORTABLE ELECTRONIC DEVICE WHILE OPERATING A MOTOR VEHICLE

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**House Bill 4466 as introduced**  
**Sponsor: Rep. Martin Howrylak**  
**Committee: Transportation and Infrastructure**  
**Complete to 5-16-17**

### REVISED SUMMARY:

House Bill 4466 would amend sections of the Michigan Vehicle Code that deal with texting while driving. Currently, the code generally prohibits ready, manually typing, or sending a text message while driving using a two-way communication device in the driver's hand or lap while moving on a highway or street. The bill would amend and rewrite this provision as it applies to non-commercial vehicles so as to:

- Prohibit a driver from holding or using a portable electronic device on a highway or street in this state, including operation while temporarily stationary because of traffic, traffic lights, or stop signs, but not including operation when the vehicle has been pulled over to the side of or off the roadway and stopped in a location where it can safely remain stationary.
- Define "use" to refer to conducting a search; viewing, taking, or transmitting an image or video; playing games; performing a command or request to access an internet page; and composing, sending, reading, viewing, accessing, browsing, transmitting, saving, or retrieving an e-mail message, text message, instant message or other electronic data.
- Allow a person to activate or deactivate a portable electronic device while operating a motor vehicle if the device is mounted on the windshield, dashboard, or center console in a manner that would not hinder the view of the road, and if the driver's hand is used to activate or deactivate a feature or function of the device with a single swipe or tap of the finger.

Under the bill, the prohibitions in the section would not apply to a person using a portable electronic device if the device is specifically designed and configured to allow voice-activated and hands-free operation and used in that manner while operating the motor vehicle. Further, it does not apply to a person who holds or uses a portable electronic device if the vehicle is stopped at the side of or off a public highway in a location where the vehicle is not prohibited from stopping by law, rule, regulation, lawful order, or direction by a police officer.

### *Penalties*

Under the Code, a person who violates the subsection is responsible for a civil infraction. House Bill 4466 would increase the fine for a first violation from \$100 to \$250 and for a

second violation from \$200 to \$500. Further, a second violation would result in one point and a second and subsequent violation two points on a driver license.

### ***Seizure or Forfeiture***

The seizure or forfeiture of a portable electronic devices would not be authorized unless otherwise required by law.

### ***Definition of Portable Electronic Device***

A "portable electronic device" would be defined to mean:

- a wireless telephone
- an electronic wireless communication device
- a personal digital assistant
- a device that has mobile data access
- a laptop computer
- a pager
- a broadband personal communication device
- a 2-way messaging device
- an electronic game
- a portable computing device
- a navigation device or GPS device
- any other electronic device that is used to conduct a search or to input, write, send, receive, or read text for present or future communication

The bill specifies that an electronic wireless device would not include a transceiver or a transmitter-receiver radio or amateur radio service equipment used by a licensee of the Federal Communications Commission.

## **REVISED FISCAL IMPACT:**

**Civil Penalties:** The bill would have an indeterminate fiscal impact, depending on the number of persons found to be in violation under the provisions of the bill. An increase in civil infraction penalties would increase revenues going to the state Justice System Fund, which supports various justice-related endeavors in the judicial branch, and the Departments of State Police, Corrections, and Health and Human Services.

**Department of State:** The bill's modification of the driver license point system would have an indeterminate direct fiscal impact to the Department of State due to both potential new revenue and expenditures. The addition of new 1 and 2 point punishable offenses could result in some drivers with 6 or more points already on their record to be assessed a Driver Responsibility Fee. A driver with 7 points on his or her record would be assessed a \$50 fee. For each additional point above 7, an additional \$25 would be assessed. Beginning October 1, 2018 these fees will be reduced by half until October 1, 2019 when the fees will be eliminated.

All additional fees from the bill would be deposited into the General Fund. The Michigan Vehicle Code specifies that the first \$8.5 million collected from Driver Responsibility Fees

shall be deposited into the Fire Protection Fund which is then distributed to municipalities to support fire protection services. After that up to \$1 million is directed to the Department of State to support administrative expenses and the remainder goes to the General Fund. Since the Treasury Department has estimated that \$34 million will be collected in Driver Responsibility Fees in Fiscal Year 2019, the final year of assessments, any additional revenue would not impact the Fire Protection Fund nor the Department of State but would go to the General Fund.

The change in the point system may cause a small number of drivers to lose their licenses if they have already accumulated 10 or 11 points on their record. Of these drivers, some may be required to pay a \$125 reinstatement fee to recover their driving privilege. For each reinstatement fee, \$50 would support Secretary of State operations, \$35 would go to the Economic Development Fund within the Department of Transportation, and \$20 would go towards drunk driving prevention, training, and case flow assistance.

Drivers who receive additional points on their license, and who are approaching the 12-point threshold but have not had their license suspended, may be required to take a driving re-examination which would result in additional administrative costs to the Department of State. The Department of State would also be required to make additional expenditures in administering changes to the license point system due to the cost of reprogramming on the Secretary of State's legacy computer systems.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.